

LEGISLATIVE AUDIT DIVISION

Scott A. Seacat, Legislative Auditor
John W. Northey, Legal Counsel



Deputy Legislative Auditors:
Jim Pellegrini, Performance Audit
Tori Hunthausen, IS Audit & Operations
James Gillett, Financial-Compliance
Audit

TO: Legislative Audit Committee Members
FROM: Jim Pellegrini, Deputy Legislative Auditor, Performance Audits
DATE: November 2004
RE: Follow-up to Performance Audit 05SP-01
Nursing Home Surveys, Certification Bureau, Quality Assurance Division,
Department of Public Health and Human Services (orig. 01P-13)

INTRODUCTION

The Legislative Audit Committee requested a performance audit of long-term health care facility surveys conducted by the Department of Public Health and Human Services (department). In June 2003, we presented to the committee our audit report, which included five recommendations to the department for improving survey activities.

This memorandum summarizes information on the implementation status of each audit recommendation.

BACKGROUND

Most long-term health care facilities, commonly referred to as nursing homes, rely upon Medicare and Medicaid funding. The Certification Bureau (bureau) within the department's Quality Assurance Division is responsible for verifying nursing home compliance with federal program requirements and certifying facilities for participation in the Medicare and Medicaid programs. The Centers for Medicare and Medicaid Services (CMS) is the federal oversight agency for these programs. The bureau also investigates allegations of abuse or neglect in nursing homes and surveys other types of health care facilities and clinics. Audit objectives focused on examining bureau compliance with federal nursing home survey requirements and the efficiency and effectiveness of survey activities.

Overview

The department has implemented all five recommendations. The department implemented an automated management information system provided by the federal government to track and monitor survey activities. Additionally, the department has modified the bureau's structure and staff responsibilities and functions to improve compliance with federal requirements and improve efficiency and effectiveness of program activities.

Follow-up audit work included interviews with division management and review of program documentation.

Follow-up Audit Findings

The following sections summarize previous audit findings and report recommendations, and division activities to implement the recommendations.

Improving Staff Recruitment and Retention

The bureau had a vacancy rate of approximately 30 percent, and almost one-half of the surveyors had less than one year of experience. The vacancy rate and inexperience of surveyors affected the bureau's ability to conduct surveys according to federal program requirements.

Prior Recommendation #1

We recommend the Certification Bureau:

- A. Expand recruitment of surveyors to other appropriate professionals.
- B. Identify and implement alternative incentives for recruiting and retaining qualified staff.

Recommendation Status: Implemented

The division has reduced its vacancy rate to approximately five percent, and bureau information indicated approximately 75 percent of the bureau's surveyors have at least one year of survey experience. Division management stated efforts to improve surveyor retention include:

- Increasing training opportunities for new and experienced surveyors.
- Cross-training survey staff in various types of facilities surveys. Division management said cross training allows surveyors to participate in different types of survey activities creating a more varied work environment.

Division data also indicated improved compliance with federal regulations governing timing of surveys, including increased variability in the timing of surveys resulting in less predictability of surveys.

Improving the Efficiency and Effectiveness of Survey Scheduling

In addition to survey timeliness issues presented in the original report, we also noted the bureau could improve the efficiency and effectiveness of scheduling activities. Previously, bureau management relied upon a manual paper system to track and monitor survey activities, which limited the bureau's ability to coordinate survey activities.

Recommendation #2

We recommend the Certification Bureau develop and implement a management information system that:

- A. Increases the bureau's ability to track and monitor the timing of surveys.
- B. Increases the bureau's ability to schedule and assign staff to maximize resources available for direct survey activities.

Recommendation Status: Implemented

The bureau implemented a scheduling system provided by the federal government that integrates with other CMS systems the bureau uses. Review of system documentation indicates the new system helps the bureau schedule surveys based on facility performance, and alerts scheduling personnel when individual facilities need a survey. The system can help scheduling personnel coordinate surveys with other bureau activities, such as complaint investigations and survey revisits. The system also integrates staff calendars to help scheduling personnel avoid conflicts with staff training, leave absences, or other survey activities.

Improving Quality Controls

Previous audit work indicated the bureau could improve its quality control practices. Division data indicated facilities requested an informal dispute resolution (IDR) process for approximately 26 percent of all cited deficiencies, and 85 percent of those deficiencies were subsequently modified. Reasons for modifications included improper citation of regulations, factual errors, and improper use of criteria. Additionally, the bureau provided minimal supervision of survey staff during surveys.

Recommendation #3

We recommend the Certification Bureau:

- A. Develop a system of controls to increase the accuracy of survey reports and improve the consistency of scope and severity determinations.
- B. Incorporate information collected from quality control activities into ongoing staff development and training.
- C. Re-evaluate resource needs, position descriptions, and supervisory responsibilities, and develop strategies for increasing supervision of survey staff.

Recommendation Status: Implemented

Division management stated they have modified the survey quality control process to increase accuracy and improve consistency in citations. Modifications include:

- Increasing team coordination when identifying and writing citations.
- Implementing an intermediate supervisory review of reports before the bureau chief's final review.
- Cross training supervisors.
- Scheduling weekly meetings to discuss survey issues and concerns.
- Increasing staff supervision during surveys.

Division data indicates nursing homes continue to request IDRs at approximately the same or slightly higher percentage rate. However, division IDR information also indicates the percentage of deficiencies that are deleted or changed in cited scope/severity dropped significantly, from approximately 54 percent to 35 percent.

The Division Implemented a New IDR Process

The 2001 Legislature required the department to implement administrative rules governing the IDR process. The new rules, which were implemented this year, changed the IDR process. The following outlines two significant changes to the IDR process.

- A “presiding official” conducts IDRs. The presiding official, which is similar to a hearing officer, is responsible for conducting IDRs. The department hired an attorney and sent the employee to administrative law judge training and provided some basic surveyor training. Previously, bureau personnel conducted IDRs, which raised questions about the independence of the IDR process.
- Nursing homes must submit supporting documentation prior to IDRs. Any substantiating materials a facility wishes to have considered as part of an informal dispute resolution process must be received by the presiding official seven days before a scheduled IDR. According to the department, this process can expedite the IDR process when nursing homes have information that was not available or considered during surveys, and may eliminate the need for a scheduled hearing before the presiding official.

Since the process was recently implemented, there is insufficient data to evaluate the impact of this process on nursing home or division survey activities or outcomes.

Ensuring Citations are Based Upon Laws and Regulations

In some instances, surveyors based deficiency citations on division policies or guidelines rather than law or rule.

Recommendation #4

We recommend the Certification Bureau implement practices to ensure deficiency citations are based only on prescribed rules or laws rather than guidelines.

Recommendation Status: **Implemented**

The division reviewed its practices and has addressed the issue. A primary area of concern for the division was smoking by nursing home residents. The division has addressed resident smoking and safety concerns as part of its review of nursing home resident needs assessments.

Improving Communication and Coordination

Audit work indicated the division could improve communication and coordination with nursing home personnel. Areas for improvement included improving communication during surveys and ensuring nursing homes are informed of changes to regulatory interpretations or enforcement activities.

Recommendation #5

We recommend the Certification Bureau:

- A. Develop strategies for improving communication during the survey process.
- B. Develop controls to assure the regulated community receives notice of, and information about, regulatory changes and bureau interpretations of rules and regulations.

Recommendation Status: **Implemented**

According to division management, the department provides ongoing training related to communication and coordination with facilities. Management stated it requires that survey teams conduct an “exit meeting” with facility management before leaving a facility to discuss problems identified during the survey. Surveyors do not provide facilities with the specific citation numbers for problems presented during exit meetings since surveyors will continue to discuss during the report writing process what citation most appropriately describes each identified problem.

The division also continues to attend industry conferences and meetings, and provides information about the survey process. For example, the division provided a mock IDR hearing at an industry conference to illustrate the new IDR process. The division also developed a process to use periodic mailings to inform nursing home managers of changes in federal regulations or CMS interpretations of regulations.